

United States Government  
MEMORANDUM

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DD/A Registry

77-01045

Enclosure 10/20/77

Office of  
Personnel Management

Subject: Financial Disclosure By Persons Who Are Expected to Perform Duties For a Period of 60 Days or Less - Ethics in Government Act of 1978 Date: **FEB 16 1979**  
In Reply Refer To:  
From: Director, Office of Government Ethics  
Your Reference:  
To: Heads of Departments, Independent Agencies and Government Corporations DD/A Registry  
File *Legal*

The question has arisen whether Section 201 of the Ethics in Government Act of 1978, P.L. 95-521, requires reports by persons assuming, nominated to, or terminating employment in, a position designated in Section 201(f) of the Act, even though the terms of such person's employment or appointment is expected to involve or actually involves service of 60 days or less. The question is generated by the fact that the primary reporting provision, Section 201(d), which requires an annual report on or before May 15 of each year, specifically excludes such persons, while other provisions do not expressly do so.

It is clear from the legislative history of the Act that arrival and departure reports were designed to be in aid of, and were viewed as directly connected with, the May 15 annual report. See S. Rep. No. 95-170, 95th Congress, 1st Sess. p.111 (1977). If no annual report is required, no report ancillary to it should be required. Although other considerations may be applicable in the case of Presidential appointees, and the legislative history does not separately address such cases, it is clear that Congress did not intend individuals serving part-time to make the unrestricted public disclosure of financial interests that the government requires in the case of full-time employees. On the other hand, the basic need remains for such reporting as will satisfy agency ethics counsellors and Congressional committees considering nominations that there is no apparent conflict-of-interest.

In reaching this conclusion, we have sought the opinions of those closely involved in the drafting of the Act, and they are in concurrence.

Accordingly, pursuant to Section 201(g) of the Act, I hereby authorize an across-the-board extension of 90 days with

respect to the filing of public financial disclosure reports by 1) persons joining the government in a position described in 201(f) but who are expected to serve 60 calendar days or less; 2) persons leaving a position described in 201(f) who served less than 60 calendar days; and 3) nominees of the President to a position, appointment to which requires the advice and consent of the Senate, who are expected to serve for 60 calendar days or less in any calendar year. If any of the above described persons joining the government should actually work 61 days in this calendar year, this extension shall no longer apply and the reports required by Section 201(b) would be due immediately. However, as a condition of and in connection with this extension, the following rules shall apply to persons joining the government whose duties are expected to involve less than 61 days of service during this calendar year:

1. Each special government employee whose appointment does not require the advice and consent of the Senate shall comply with the requirements for reporting established by the agency for which he will serve, and each executive agency shall require at least such reporting as is prescribed by Form 278A, issued by this Office.

2. Each nominee of the President to a position, appointment to which requires the advice and consent of the Senate, shall fill out reporting Form 278A and deliver it to the designated agency ethics official in the agency in which he will, if appointed, serve. Delivery shall be made within 10 days of the transmittal of his nomination by the President. Such officer shall also transmit a copy to the Counsel to the President.

3. Neither the Form 278A or any similar reports filed, nor any copies, shall be made public, but shall be reviewed by the designated agency ethics official and other recipients for purpose of determining the existence of, and protecting against, potential conflicts-of-interest.

4. A nominee shall also make available to any Committee of the Senate or Congress considering his nomination, such information as the Committee, in its discretion, shall desire for this purpose.

If the reporting requirements for these individuals are not legislatively clarified within the aforesaid 90 days,

the Office of Government Ethics will do so by proposing the adoption of an interpretive regulation.

Any questions concerning this procedure may be addressed to this Office.

  
Bernhardt K. Wruble

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# EXECUTIVE SECRETARIAT (O/DCI)

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Executive Secretary